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U.S. Citizenship
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Services

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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: JUN 29 2005
[EAC 03 243 51599]

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant claims to be a native and citizen of Honduras who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application after determining that the applicant had failed to respond to his request to submit evidence to establish that he: (1) was eligible for late registration; (2) had continuously resided in the United States since December 30, 1998; and (2) had been continuously physically present in the United States from January 5, 1999, to the date of filing his application. The director, therefore, denied the application.

On appeal, the applicant submits a statement.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under § 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS during the initial registration period announced by public notice in the *Federal Register*, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
 - (iii) The applicant is a parolee or has a pending request for reparole; or

(iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

The term *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

The term *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. On May 11, 2000, the Attorney General announced an extension of the TPS designation until July 5, 2001. Subsequent extensions of the TPS designation have been granted with the latest extension valid until July 5, 2006, upon the applicant's re-registration during the requisite time period.

The initial registration period for Hondurans was from January 5, 1999 through August 20, 1999. The record shows that the applicant filed his TPS application on August 18, 2003.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (CIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The first issue in this proceeding is whether the applicant is eligible for late registration.

The record of proceeding confirms that the applicant filed his application after the initial registration period had closed. To qualify for late registration, the applicant must provide evidence that during the initial registration period from January 5, 1999 through August 20, 1999, he fell within the provisions described in 8 C.F.R. § 244.2(f)(2) (listed above).

In a notice of intent to deny dated September 15, 2003, the applicant was requested to submit evidence establishing his eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2), and his qualifying physical presence in the United States.

In response, the applicant provided a statement indicating that he was sorry for not sending his application on time, but that he was without a job and without any money for the application fee. He also provided additional evidence in an effort to establish his qualifying residence and physical presence in the United States.

The director issued another notice of intent to deny dated February 17, 2004, requesting that the applicant submit evidence to establish that he: (1) was eligible for late initial registration; (2) had continuously resided in the United States since December 30, 1998; and (3) had been continuously physically present from January 5, 1999, to the date of filing the application.

The director determined that the applicant had failed to respond to his request and denied the application on April 6, 2004.

On appeal, the applicant states that he needs to work legally in this country in order to support his family and himself. The applicant neither addressed nor submitted any evidence to establish that he has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the director's decision to deny the TPS application on this ground will be affirmed.

The second issue in this proceeding is whether the applicant has establish his continuous residence in the United States since December 30, 1998, and continuous physical presence in the United States from January 5, 1999, to the date of filing the TPS application.

In a notice of intent to deny dated September 15, 2003, the applicant was requested to submit evidence to establish that he had been continuously physically present in the United States from March 9, 2001,¹ to the date of filing his application.

In response, the applicant provided undated statements from four acquaintances and former co-workers all attesting to their knowledge of the applicant. Regulations at 8 C.F.R. § 244.9(a)(2) do not expressly provide that personal affidavits on an applicant's behalf are sufficient to establish the applicant's qualifying continuous residence or continuous physical presence in the United States. Moreover, these affidavits were not supported by any other corroborative evidence.

The director issued another notice of intent to deny dated February 17, 2004, requesting that the applicant submit evidence to establish that he: (1) had continuously resided in the United States since December 30, 1998; and (2) had been continuously physically present from January 5, 1999, to the date of filing the application.

The director determined that the applicant had failed to respond to his request and denied the application on April 6, 2004.

On appeal, the applicant asserts that he does not have any documents, such as receipts or medical records, and that he has only friends and co-workers who know him and can attest to his residence.

The applicant has furnished insufficient evidence to establish his qualifying residence and physical presence in the United States during the requisite period. He has, therefore, failed to establish that he has met the criteria described in 8 C.F.R. § 244.2(b) and (c). Consequently, the director's decision to deny the TPS application on this ground will also be affirmed.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.

¹ The director erroneously referred to TPS designation and dates for El Salvadorans rather than for Hondurans.